



Docket No.: 51410/P043C1/10401539
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Bradley J. Witteman

Application No.: 09/841,327

Confirmation No.: 5979

Filed: April 23, 2001

Art Unit: 2623

For: **SYNCHRONIZING AUDIO AND TEXT OF
MULTIMEDIA SEGMENTS**

Examiner: U. Raman

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on June 20, 2006, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying
TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R.
§ 41.37 and M.P.E.P. § 1205:

- I. Real Party In Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument

Claims Appendix
Evidence Appendix
Related Proceedings Appendix

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I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Openwave Systems Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 18 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 1-18
2. Claims withdrawn from consideration but not canceled: 0
3. Claims pending: 19-36
4. Claims allowed: 0
5. Claims rejected: 19-36

C. Claims On Appeal

The claims on appeal are claims 19-36

IV. STATUS OF AMENDMENTS

Appellant did not file an Amendment After Final Rejection. A copy of the claims involved in the present appeal is attached hereto under the Claims Appendix section. The claims on appeal include the Preliminary Amendment filed by Appellant on July 28, 2005.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following provides a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings by reference characters, as required by 37 C.F.R. § 41.37. Each element of the claims is identified by a corresponding reference to the specification and drawings where applicable. However, the citation to passages in the specification and drawings does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

With regard to claim 19, the claimed subject matter includes a method for searching in a multimedia signal (page 6, lines 24-26; page 11, lines 3-9; figure 1, item 420; figure 3, item 452), wherein the multimedia signal includes at least a first data format component and a second data format component (page 6, lines 2-7; page 9, lines 25-31; figure 1, items 414 and 422; figure 2A, items 442, 444, 446, and 480), the method comprising receiving a search parameter (page 9, lines 10-24), analyzing the first data format component of the multimedia signal to identify occurrences of the search parameter (page 8, lines 19 and 20; page 9, lines 25-17; figure 3, item 452), and for at least one occurrence of the search parameter in the first data component, presenting a corresponding second data format segment of the multimedia signal (page 8, lines 24-27; page 9, lines 17 and 18; figure 3, item 454).

With regard to claim 29, the claimed subject matter includes a method for processing data in a multimedia signal (page 6, lines 2 and 3), where the method comprises analyzing a first data format component of the multimedia signal to identify occurrences of a search parameter (page 6, lines 22-36; figure 1, items 416, 418, and 420), and for at least one occurrence of the search parameter in the first data component, identifying a corresponding segment of a second data format component in the multimedia signal (page 6, line 26—page 7, line 2; figure 1, items 424 and 426).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 19-32, 35, and 36 are properly rejected under 35 U.S.C. § 102(e) as being anticipated by Brodsky (U.S. Patent No. 5, 809, 471, hereinafter *Brodsky*); and

Whether claims 33 and 34 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Brodsky*.

VII. ARGUMENT

Appellant traverses all outstanding rejections, and respectfully requests that the Board reverse such rejections in light of the remarks contained herein. Below, Appellant argues many of the rejected claims separately. Thus, Appellant respectfully asserts that separately argued claims do not stand or fall together. *See* 37 C.F.R. § 41.37(c)(1)(vii).

A. Claim Rejections Under 35 U.S.C. § 102

Claims 19-32, 35, and 36 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Brodsky*. In order to anticipate a claim under 35 U.S.C. § 102, a single reference must teach each and every element of the claim. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Appellant respectfully submits that *Brodsky* fails to teach each and every element of claims, and respectfully requests that the Board overrule these rejections.

1. Independent Claim 19 and Dependent Claims 20, 22, 25, 26 and 28

Claim 19 recites, in part, “[a] method for searching in a multimedia signal . . .” The Examiner relies upon the following passage of *Brodsky* as meeting this limitation:

[u]pon recognition of the request, a search is initiated to access, import and deliver to the user the information required to satisfy the request.

Brodsky, column 1, lines 60-62, *cited in* Final Office Action, page 4. However the aforementioned passage refers to a search that is performed in a database, not in a multimedia signal. *Brodsky*, column 6, lines 28-32. In response to these remarks, the Examiner has relied on other sections of *Brodsky* that further support Appellant’s position. *See* Final Office Action, page 2. For example, as the Examiner has correctly pointed out, *Brodsky* teaches that:

recognition processor 106 . . . recognizes the user's request by matching the request 'words' against the vocabulary stored in the buffer [vocabulary] 104.

Brodsky, column 4, lines 62-67. This passage clearly teaches that *Brodsky*'s search is performed in buffer vocabulary 104 and not in a multimedia signal.

Claim 19 also recites, in part, that the "multimedia signal includes at least a first data format component and a second data format component . . ." The Examiner relies upon *Brodsky*'s "closed caption text" (extracted from a TV or telephone input signal) and "retrieved additional information" (provided by application 112) as meeting the claimed first and second data format components, respectively. Final Office Action, page 4. However, *Brodsky*'s "retrieved additional information" and "closed caption text" are two completely distinct signals, each originating from different sources and reaching display 108 through different paths. *Brodsky*, column 2, lines 34-39; Figure 1. Therefore, *Brodsky*'s "closed caption text" and "retrieved additional information" are not components of "a multimedia signal," as required by claim 19. In response to these remarks, the Examiner has stated that:

[t]he multimedia signal, as applied by the [E]xaminer, includes the [sic] **all forms of multimedia signal presented** (incoming and locally generated) to the user on the multimedia system 100, wherein the multimedia signal includes various components presented to the user.

Final Office Action, pages 2 and 3 (emphasis added). In other words, the Examiner has admittedly relied on more than one multimedia signal in order to meet the claimed elements, despite the fact that claim 19 explicitly recites a single multimedia signal that includes two components.

Claim 19 further recites, in part, "analyzing the first data format component of the multimedia signal to identify occurrences of the search parameter . . ." Again, the passage of *Brodsky* relied upon by the Examiner as meeting this limitation only discloses analyzing a vocabulary to identify occurrences of the user's request. *Brodsky*, column 2, lines 25-27, 30-32, and 60-62. Appellant points out that *Brodsky*'s vocabulary is a dictionary made up of information extracted from the multimedia signal by content extractor 102 and stored in buffer 104. *Brodsky*, column 1, lines 55-60; column 2, lines 55-58; figure 1. As such, *Brodsky*'s vocabulary is not a component of a multimedia signal, as required by claim 19.

In addition, claim 19 recites, in part, “for at least one occurrence of the search parameter in the first data component, presenting a corresponding second data format segment of the multimedia signal.” The passage of *Brodsky* relied upon by the Examiner as meeting this limitation discloses that when a user’s request matches a dictionary entry, information is retrieved from database application 112 and presented to the user. *Brodsky*, column 2, lines 35-39; column 3, lines 33-36. As noted above, *Brodsky*’s vocabulary is not a part of the multimedia signal, hence an occurrence of a search parameter in *Brodsky* is not the same as an “occurrence of the search parameter in the first data component” of a multimedia signal, as required by claim 19. Furthermore, *Brodsky*’s retrieved signal stream (carrying the additional retrieved information) is not a part of the multimedia signal, and thus *Brodsky* does not teach or suggest “presenting a corresponding second data format segment of the multimedia signal.” Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 19.

Dependent claims 20, 22, 25, 26 and 28 depend either directly or indirectly from claim 19, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 19. Consequently, *Brodsky* also fails to teach every element of dependent claims 20, 22, 25, 26 and 28. Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claims 20, 22, 25, 26 and 28.

2. Dependent Claim 21

Dependent claim 21 depends either directly or indirectly from claim 19, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 19. Consequently, *Brodsky* also fails to teach every element of dependent claim 21. Moreover, claim 21 recites additional limitations not taught or suggested by the applied art.

For example, claim 21 requires that “the corresponding second data format segment [be] a section of the audio component that begins and ends within a predetermined period of time before and after the occurrence of the search parameter in the closed caption component.” First, Appellant points out that the Examiner has relied upon *Brodsky*’s “TV or

telephone input" and "retrieved information" signals as meeting the claimed "closed caption component" and "audio component." Final Office Action, page 4. Appellant asserts that *Brodsky* does not teach or suggest the occurrence of a search parameter in its "TV or telephone input signal," at least, because it does not teach or suggest searching within the "TV or telephone input signal." In fact, *Brodsky*'s search is performed in buffer vocabulary 104, and not in a signal. *Brodsky*, column 4, lines 62-67. Moreover, because *Brodsky*'s "TV or telephone input" and "retrieved information" signals are independent from each other, one of them cannot be a segment that begins within a predetermined period of time before the occurrence of a search parameter in the other and that ends within a predetermined period of time after the occurrence of the search parameter in the other, as required by claim 21. Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 21.

3. Dependent Claim 23

Dependent claim 23 depends either directly or indirectly from claim 19, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 19. Consequently, *Brodsky* also fails to teach every element of dependent claim 23. Moreover, claim 23 recites additional limitations not taught or suggested by the applied art.

For example, claim 23 requires that "the corresponding second data format segment [be] a section of the video component that begins and ends within a predetermined period of time before and after the occurrence of the search parameter in the closed caption component." Again, Appellant points out that the Examiner has relied upon *Brodsky*'s "TV or telephone input" and "retrieved information" signals as meeting the claimed "closed caption component" and "video component." Final Office Action, page 4. Appellant asserts that *Brodsky* does not teach or suggest the occurrence of a search parameter in its "TV or telephone input signal," at least, because it does not teach or suggest searching within the "TV or telephone input signal." In fact, *Brodsky*'s search is performed in buffer vocabulary 104, and not in a signal. *Brodsky*, column 4, lines 62-67. Moreover, because *Brodsky*'s "TV or telephone input" and "retrieved information" signals are independent from each other, one of them cannot be a segment that begins within a predetermined period of time before the

occurrence of a search parameter in the other and that ends within a predetermined period of time after the occurrence of the search parameter in the other, as required by claim 23.

Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 23.

4. Dependent Claim 24

Dependent claim 24 depends either directly or indirectly from claim 19, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 19. Consequently, *Brodsky* also fails to teach every element of dependent claim 24. Moreover, claim 24 recites additional limitations not taught or suggested by the applied art.

For example, claim 24 requires that “the corresponding second data format segment [be] a still image from the video component that is present at the occurrence of the search parameter in the closed caption component.” Appellant has been unable to find any passage of *Brodsky* that describes its retrieved application information as a still image from a video component of the multimedia signal, much less that the still image is present at the occurrence of the search parameter in the closed caption component of the multimedia signal, and the Examiner has not shown otherwise. *See* Final Office Action, page 5. Moreover, the Examiner has mistakenly stated that the claimed still image is “anticipated by the scope of selective picture.” *Id.* Appellant respectfully points out that the term “selective picture” refers to a well-known television feature that allows a user to select which video stream to display at a particular moment (e.g., a stored video or a program in progress), and as such it is not the same, or even similar, to the claimed “still picture.” Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 24.

5. Dependent Claim 27

Dependent claim 27 depends either directly or indirectly from claim 19, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 19. Consequently, *Brodsky* also fails to teach

every element of dependent claim 27. Moreover, claim 27 recites additional limitations not taught or suggested by the applied art.

For example, claim 27 requires “converting the search parameter from the third format to the first format.” The Examiner states that *Brodsky* teaches receiving a search parameter in a third format (e.g., voice), and that *Brodsky*’s use of a “voice recognition technique inherently involves converting a voice signal into **another format**.” Final Office Action, pages 5 and 6 (emphasis added). Even assuming, *arguendo*, that *Brodsky* indeed taught converting a third format into **another format**, that alone would not meet the step of converting the third format into **the first format**, as required by claim 27. Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 27.

6. Independent Claim 29 and Dependent Claims 30, 35, and 36

Claim 29 recites, in part, “analyzing a first data format component of the multimedia signal to identify occurrences of a search parameter” As previously noted, *Brodsky* discloses analyzing a vocabulary to identify occurrences of the user’s request. *Brodsky*, column 2, lines 25-27, 30-32, and 60-62. Appellant asserts that *Brodsky*’s vocabulary is a dynamically changing dictionary made up of information extracted from a multimedia signal by content extractor 102 and stored in vocabulary buffer 104. *Brodsky*, column 1, lines 55-60; column 2, lines 55-58; figure 1. Therefore, because *Brodsky*’s vocabulary is not a part of the multimedia signal, *Brodsky* does not teach or suggest the claimed limitation.

Claim 29 also recites, in part, “for at least one occurrence of the search parameter in the first data component, identifying a corresponding segment of a second data format component in the multimedia signal.” Again, *Brodsky* discloses that when a user’s request matches a dictionary entry, information is retrieved from database application 112 and presented to the user. *Brodsky*, column 2, lines 35-39; column 3, lines 33-36. *Brodsky*’s vocabulary is not a part of the multimedia signal, hence an occurrence of a search parameter in *Brodsky* is not the same as an “occurrence of the search parameter in the first data component” of a multimedia signal, as required by claim 29. Furthermore, *Brodsky*’s retrieved signal stream (carrying the additional retrieved information) is not a part of the

multimedia signal. Therefore, *Brodsky* does not teach or suggest “presenting a corresponding second data format segment of the multimedia signal.” Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 29.

Dependent claims 30, 35, and 36 depend either directly or indirectly from claim 29, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 29. Consequently, *Brodsky* also fails to teach every element of dependent claims 30, 35, and 36. Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claims 30, 35, and 36.

7. Dependent Claim 31

Dependent claim 31 depends either directly or indirectly from claim 29, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach every element of independent claim 29. Consequently, *Brodsky* also fails to teach every element of dependent claim 31. Moreover, claim 31 recites additional limitations not taught or suggested by the applied art.

For example, claim 31 requires that “the segment of the video component [be] a single image.” Appellant has been unable to find any passage of *Brodsky* that describes its retrieved application information as a single image from a video component of a multimedia signal. The Examiner has mistakenly stated that the claimed single image is “anticipated by the scope of selective picture.” Final Office Action, page 5. As previously noted, the term “selective picture” refers to a well-known television feature that allows a user to select which video stream to display at a particular moment (e.g., a stored video or a program in progress), and as such it is not the same, or even similar, to the claimed “single picture.” Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 31.

8. Dependent Claim 32

Dependent claim 32 depends either directly or indirectly from claim 29, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not

teach every element of independent claim 29. Consequently, *Brodsky* also fails to teach every element of dependent claim 32. Moreover, claim 32 recites additional limitations not taught or suggested by the applied art.

For example, claim 32 requires that “the segment of the video component [be] a video clip of predetermined length that corresponds to an occurrence of the search parameter in the first data component.” Appellant points out that the Examiner has relied upon *Brodsky*’s “TV or telephone input” and “retrieved information” signals as meeting the claimed “first data component” and “video component.” Final Office Action, page 4. Appellant asserts that *Brodsky* does not teach or suggest the occurrence of a search parameter in its “TV or telephone input signal,” at least, because it does not teach or suggest searching within the “TV or telephone input signal.” In fact, *Brodsky*’s search is performed in buffer vocabulary 104, and not in a signal. *Brodsky*, column 4, lines 62-67. Therefore, Appellant respectfully asserts that *Brodsky* does not teach or suggest or suggest that the retrieved application information is a video clip of a length which corresponds to an occurrence of a search parameter in the closed caption component, as required by claim 32. Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claim 32.

B. Claim Rejections Under 35 U.S.C. § 103

Claims 33 and 34 are rejected under 35 U.S.C. § 103 as being unpatentable over *Brodsky*. In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the applied reference. *See In re Vaeck* 947 F.2d 488, 20 USPQ.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck and Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Finally, the applied reference must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

1. Lack of All Claimed Limitations

Dependent claims 33 and 34 depend either directly or indirectly from claim 29, thus inheriting all of the limitations of that independent claim. As noted above, *Brodsky* does not teach or suggest every element of independent claim 29. The Examiner has not relied on any source as curing *Brodsky*'s deficiencies, and Appellant respectfully asserts that the Official Notice taken by the Examiner does not cure such deficiencies. *See* Final Office Action at page 8. Consequently, the modification of *Brodsky* proposed by the Examiner fails to teach or suggest every element of dependent claims 33 and 34. Moreover, these dependent claims recite additional limitations not taught or suggested by the applied art.

For example, claim 33 recites, in part, "receiving the search parameter in a text format; and converting the search parameter to an audio data format prior to analyzing the multimedia signal." The Examiner does not contend that *Brodsky* teaches or suggests these limitations, and the Official Notice taken by the Examiner only states that "a search request generated by selection from a visual menu can be in text format." Final Office Action, page 8. Appellant respectfully asserts that the proposed modification of *Brodsky* in view of Official Notice does not teach or suggest every element of claim 33. Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claims 33 and 34.

2. Improper Motivation

The Examiner states that:

[t]he motivation to use a text format search is to allow the user to select various words that maybe [sic] present in closed captions."

Final Office Action at page 8. Appellant respectfully asserts that there is no need in *Brodsky* for allowing the user to select various words that may be present in the closed caption. Moreover, the motivation proposed by the Examiner is improper insofar as the use of a "text format search" would not meet the aforementioned elements of claims 33 and 34.

Accordingly, Appellant respectfully requests that the Board overrule the § 102(e) rejection of record with respect to claims 33 and 34.

Dated: June 20, 2006

Respectfully submitted,

By Michael J. Fogarty, III
Michael J. Fogarty, III
Registration No. 42,541
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784
(214) 855-8172
(214) 855-8200 (Fax)
Attorney for Appellant

CLAIMS APPENDIX**Claims Involved in the Appeal of Application Serial No. 09/841,327**

19. (Previously Presented) A method for searching in a multimedia signal, wherein the multimedia signal includes at least a first data format component and a second data format component, the method comprising:

receiving a search parameter;

analyzing the first data format component of the multimedia signal to identify occurrences of the search parameter; and

for at least one occurrence of the search parameter in the first data component, presenting a corresponding second data format segment of the multimedia signal.

20. (Previously Presented) The method of claim 19 wherein the first data format component is a closed caption component, and wherein the second data format component is an audio component.

21. (Previously Presented) The method of claim 20 wherein the corresponding second data format segment is a section of the audio component that begins and ends within a predetermined period of time before and after the occurrence of the search parameter in the closed caption component.

22. (Previously Presented) The method of claim 19 wherein the first data format component is a closed caption component, and wherein the second data format component is a video component.

23. (Previously Presented) The method of claim 22 wherein the corresponding second data format segment is a section of the video component that begins and ends within a predetermined period of time before and after the occurrence of the search parameter in the closed caption component.

24. (Previously Presented) The method of claim 22 wherein the corresponding second data format segment is a still image from the video component that is present at the occurrence of the search parameter in the closed caption component.

25. (Previously Presented) The method of claim 19 wherein the first data format component is an audio component, and wherein the second data format component is a video component.

26. (Previously Presented) The method of claim 19 wherein the formats of the first data format component and the second data format component are selected from the group consisting of:

- text data;
- closed caption data;
- audio data;
- speech data; and
- video data.

27. (Previously Presented) The method of claim 19 wherein the step of receiving a search parameter further comprises:

- receiving the search parameter in a third data format; and
- converting the search parameter from the third format to the first format.

28. (Previously Presented) The method of claim 27 wherein the format of the third data format component and the first data format component are selected from the group consisting of:

- text data;
- closed caption data;
- audio data;
- speech data; and
- video data.

29. (Previously Presented) A method for processing data in a multimedia signal, comprising:

analyzing a first data format component of the multimedia signal to identify occurrences of a search parameter; and

for at least one occurrence of the search parameter in the first data component, identifying a corresponding segment of a second data format component in the multimedia signal.

30. (Previously Presented) The method of claim 29 wherein the second data format component is a video component, and

further comprising:

displaying the segment of the video component to a user.

31. (Previously Presented) The method of claim 30 wherein the segment of the video component is a single image.

32. (Previously Presented) The method of claim 30 wherein the segment of the video component is a video clip of predetermined length that corresponds to an occurrence of the search parameter in the first data component.

33. (Previously Presented) The method of claim 29 wherein the first data format component is an audio component, and further comprising:

receiving the search parameter in a text format; and

converting the search parameter to an audio data format prior to analyzing the multimedia signal.

34. (Previously Presented) The method of claim 33 wherein the converting step is performed using a text-to-speech converter.

35. (Previously Presented) The method of claim 29 wherein the first data format component is a text component, and further comprising:

receiving the search parameter in an audio format; and

converting the search parameter to a text data format prior to analyzing the multimedia signal.

36. (Previously Presented) The method of claim 35 wherein the converting step is performed using a speech-to-text converter.

EVIDENCE APPENDIX

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced above, therefore copies of decisions in related proceedings are not provided.